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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS-SAGU-10884; 8671-0004-SZM]

RIN 1024-AE08

Special Regulations; Areas of the National Park System, Saguaro National Park, Bicycling

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This rule designates the Hope Camp Trail as a route for bicycle use and allows for management of bicycle use within Saguaro National Park. Further, the rule meets the provision of the National Park Service general regulation pertaining to bicycles requiring promulgation of a special regulation to designate bicycle routes outside of developed areas.

DATES: This rule is effective [INSERT 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Darla Sidles, Superintendent, Saguaro National Park, (520) 733-5101.

SUPPLEMENTARY INFORMATION:

Background

Legislation and Purposes of Saguaro National Park

In 1933, in order to protect lands with exceptional growth of various species of cacti, including the so-called giant or saguaro cactus, President Herbert Hoover established what would later be known as Saguaro National Monument through Proclamation No. 2032 (47 Stat. 2557).

In 1961 President John F. Kennedy enlarged the national monument to include certain lands in what was then known as the Tucson Mountain Park through Proclamation No. 3439 (76 Stat. 1437). In 1976 Congress designated 71,400 acres of the national monument as wilderness (Pub. L. No. 94-567, 90 Stat. 2692, 2693). Then, in 1991, through the Saguaro National Monument Expansion Act of 1991, Congress authorized the addition of approximately 3,540 acres of lands to the Rincon Unit of the national monument (Pub. L. No. 102-61, 105 Stat. 303). Finally in 1994, through the Saguaro National Park Establishment Act of 1994, Congress again expanded the park area and renamed it Saguaro National Park (Park) (Pub. L. 103-364, 108 Stat. 3467, codified at 16 U.S.C. 410zz through 410zz-3).

The Park is an important national resource visited by approximately 700,000 people annually. It encompasses approximately 91,450 acres, 71,400 acres of which are designated as wilderness. The Park has two Districts - the Rincon Mountain District east of Tucson and the Tucson Mountain District west of Tucson. Both are within Pima County, Arizona, and are separated by the city of Tucson. The Park protects a superb example of the Sonoran Desert ecosystem, featuring exceptional stands of saguaro cacti. The saguaro is the tallest cactus in the United States, and is recognized worldwide as an icon of the American Southwest.

The Hope Camp Trail is a 2.8-mile-long hiking and equestrian trail that originates at the Loma Alta Trailhead and travels east through the southwestern portion of the Park's Rincon Mountain District to the Arizona State Trust Lands boundary beyond Hope Camp. The trail generally traverses relatively even terrain and rolling hills and is lined with a variety and abundance of desert trees and shrubs. The trail is not within eligible, proposed, recommended, or designated wilderness.

Prior to the National Park Service (NPS) acquisition in the mid 1990s, the land was part of a privately-owned ranch, and the trail route was a graded dirt road used to support ranching operations. The former owner also allowed the route to be used for recreational purposes, including hiking, equestrian, and bicycle use. Shortly after acquiring the land, the NPS closed the route to motor vehicles and bicycles. The trail is currently open to hiker and equestrian use only. Although closed to vehicular traffic, the route remains approximately 14 feet wide, allowing adequate room for two-way passage of diverse user groups.

General Management Plan

The Park's General Management Plan/Environmental Impact Statement (GMP) was completed in 2008. The GMP may be viewed online at <http://parkplanning.nps.gov/sagu>.

The purposes of the GMP are as follows:

- Confirm the purpose, significance, and special mandates of the Park.
- Clearly define resource conditions and visitor uses and experiences to be achieved at the Park.
- Provide a framework for NPS managers to use when making decisions about how to:
 - best protect Park resources;
 - provide quality visitor uses and experiences; and
 - manage visitor uses and what kinds of facilities, if any, to develop in/near the Park.
- Ensure that a foundation for decision making has been developed in consultation with interested stakeholders and adopted by NPS leadership after an adequate analysis of the benefits, impacts, and economic cost of alternative courses of action.

The GMP identifies six different management zones, which are specific descriptions of desired conditions for Park resources and visitor experiences in different areas of the Park. As

identified in the GMP, the Hope Camp Trail lies within the Natural Zone. Under the GMP, activities within the Natural Zone would include hiking, horseback riding, running, bicycling, and viewing flora and fauna. The zone is available for day use only, and visitors are required to stay on trails. The GMP provides that bicycling opportunities will be explored along the Hope Camp Trail.

Comprehensive Trails Management Plan/Environmental Assessment

In November 2005, the Park initiated the development of a Comprehensive Trails Management Plan/Environmental Assessment (Plan/EA) for the Park. Internal scoping occurred with Park staff, planning professionals from the NPS Intermountain Support Office, along with representatives from the U.S. Forest Service and the Sonoran Institute. External scoping included mailing and distribution of three separate newsletters, four public open house meetings, and a 60-day public comment period. As a result of this process, four alternatives for the Park's Rincon Mountain District (including a no action alternative) were identified for public comments. Two alternatives called for converting the Hope Camp Trail into a multi-use trail, to include the use of bicycles, and two alternatives kept the trail open to hikers and equestrians only. During the public comment period on the draft Plan/EA, the NPS considered 253 pieces of correspondence, containing a total of 638 comments on the draft Plan/EA alternatives.

The objectives of the Plan/EA were to:

- Prevent impairment and unacceptable impacts on natural and cultural resources.
- Provide reasonable access to the trails network and trailheads.
- Eliminate unnecessary and parallel/duplicate trails.
- Ensure that the resulting trails network is safe and maintainable.
- Provide for a clearly designated trail system.

- Provide for a variety of trail experiences.

The Plan/EA was completed in 2009. The selected alternative and the Finding of No Significant Impact (FONSI) signed by the NPS Intermountain Regional Director on July 31, 2009, calls for converting the Hope Camp Trail to a multi-use trail, including bicycling. The Plan/EA and FONSI may be viewed online at <http://www.nps.gov/sagu/parkmgmt/park-planning.htm>.

History of Bicycle Use

A 2003 rulemaking authorized bicycle use on the 2.5-mile-long Cactus Forest Trail that bisects the paved, 8-mile-long Cactus Forest Loop Drive in the Rincon Mountain District of the Park. This rulemaking does not address the Cactus Forest Trail (CFT), which remains open to bicycle use, as well as hiker and equestrian use. The CFT has recently been used to introduce underserved youth to the Park and the NPS via bicycling and educational fieldtrips as part of the “Trips for Kids” program. Currently, this is the only trail in the Park open to bicycle use.

Authorizing Bicycle Use

This rule designates as a bicycle route and opens to bicycle use the approximate 2.8-mile-long Hope Camp Trail, from the Loma Alta Trailhead east to the Arizona State Trust Lands boundary, approximately .2 miles beyond Hope Camp. Park staff, volunteer organizations, and local interest groups will monitor and mitigate the environmental impacts of bicycle use on the Hope Camp Trail to ensure that the trail is maintained in good condition and that any issues of concern that may arise are immediately brought to the attention of Park management.

Notice of Proposed Rulemaking

On March 2, 2012, the NPS published a Notice of Proposed Rulemaking for the designation of the Hope Camp Trail as a bicycle route within Saguaro National Park (77 FR

12761). The proposed rule was available for a 60-day public comment period, from March 2, 2012 through May 1, 2012.

Summary of and Responses to Public Comment

Comments were accepted through the mail, by hand delivery, and through the Federal eRulemaking Portal: <http://www.regulations.gov>. The NPS received 148 public comments during the comment period. Of these responses, 142 expressed support for the proposed rule. Three of the responses were from organizations, and the rest were from individuals. The three organizations that responded, all in support of the proposed regulation, are the Southern Arizona Hiking Club, Arizona Trail Association, and International Mountain Bicycling Association. There were no responses received from organizations in opposition of the proposed rule.

Some of the 142 comments received supporting the proposed include:

1. *Comment:* I support the proposed regulation to allow bicycles on Hope Camp Trail in Saguaro National Park. The special regulation to allow bicycles on the Hope Camp Trail should be promulgated because:

- a) Bicycles were allowed on this dirt road before the property was acquired by the NPS;
- b) Bicycle access on Hope Camp trail is not controversial because the area is not recommended or designated as Wilderness;
- c) Bicycle access is consistent with the 2009 Comprehensive Trails Management Plan; and
- d) The Hope Camp trail provides a vital connection between Tucson and the Arizona Trail.

Having this connectivity would allow riders to use the City of Tucson as a starting or ending destination when riding the southern sections of the Arizona Trail that head south into the

Rincon Valley. The Arizona Trail Association is working to find a route that will allow cyclists to also travel north from Tucson.

2. *Comment:* This is a chance to advance an important principle that bicycles are a low-impact recreational opportunity that is compatible with the mission of the National Park Service.

3. *Comment:* In regards to the opening of the trail connecting Saguaro National Park, Hope, and the Arizona Trail - I am in complete support of the change of trail designation to include full multi-use, including hikers, equestrian, and mountain bicycles (no motorized vehicles). I have hiked on this trail, as well as helping to work on it during its very early stages. It will make a vital connection to the Arizona trail for those trail users who enjoy longer excursions into the surrounding area. Also, a significant amount of the proposed section of trail is laid on established right of ways, actually being bladed. A review of trails in the surrounding area will confirm that multi-use trails can and do exist very well, allowing an expanded number of users with minimal impact on the natural resources. Please make this change in designation.

The five comments received in opposition of the proposed rule, along with the NPS response, to each follow:

1. *Comment:* I am NOT in favor of opening the Hope Camp Trail to bicycle use until such time as the trailhead parking area, which I understand is Pima County property, is improved to safely accommodate the additional parking without further damaging the surrounding natural resource.

Response: The NPS agrees that trailhead improvements are needed at the Hope Camp Trailhead. The park's GMP calls for re-designing and improving the Camino Loma Alta trailhead. The current trailhead and access road are on Pima County property. The NPS is

working with Pima County to transfer ownership to the NPS. Pima County has also expressed interest in partnering with the park to re-design and improve the Loma Alta Trailhead.

2. *Comment:* As an avid mountain biker, I am always happy to see new access to challenging and scenic land. However, this proposal is an exception, in that this trail will bring mountain bikers much too close to sites of historic and archaeological value. Therefore, I oppose this re-designation, and hope that you decide not to allow bicycle access.

Response: While there are areas of historic and archaeological interest along the Hope Camp area, the NPS believes the return of bicyclists to this pre-existing route will not lead to degradation of these resources. The Hope and Deer Camp areas provide a great opportunity to interpret the Park's ranching heritage; however, an evaluation by the Arizona State Historic Preservation Office found they are not eligible for listing on the National Registry of Historic Places.

3. *Comment:* I oppose any mountain bike trails within Saguaro National Park. I believe that bike use on trails within this park is incompatible with the visitors' expectations of a trail experience within a national park.

Response: The Park completed its GMP in 2008. The GMP's preferred alternative identified the Hope Camp Trail, an area determined not suitable for wilderness designation, for conversion to a multi-use trail. Subsequently, the Plan/EA completed in 2009, also identified conversion of the Hope Camp Trail as a multi-use trail. Numerous public meetings were held for both plans, and both plans were published for 60-day review and comment periods. Public interest in these planning processes was high, and the park received many comments, but none expressed concern that bicycle use was incompatible with visitor experience. The NPS is committed to providing appropriate, high quality opportunities for visitors to enjoy the units of

the National Park System, consistent with the agencies stewardship responsibilities. In 2005, the NPS entered into a General Agreement with the International Mountain Bicycling Association (IMBA). This agreement is the culmination of collaborative efforts of both parties to provide high quality bicycling opportunities for visitors to enjoy the national park system, in appropriate areas in a manner consistent with our stewardship responsibilities. Mountain biking is also compatible with national programs such as the First Lady's "Let's Move Outside" initiative that encourages kids to get outside and be more physically active, as well as with many NPS efforts promoting Healthy People, Healthy Parks.

4. Comment: This proposal would lead to significant changes to the trail experience in this portion of Saguaro National Park that will negatively impact hikers, equestrians, wildlife, and will reduce solitude and wilderness-like aesthetics that are long-standing attributes in this area and the primary draw for visitors over the years. Most egregiously, it will also lead to renegade use by cyclists of the Quilter Trail leading into the Saguaro Wilderness, due to unregulated access and a lack of enforcement.

Response: While there may be changes to trail experiences, the NPS believes bicycle use is compatible to the trail's current users. For all park trails connecting to the Hope Camp Trail, including the Quilter Trail, use of bicycles will continue to be prohibited. Appropriate signing will be installed and NPS rangers and volunteers will patrol these trails and enforce NPS regulations.

5. Comment: I find it simply wrong to take away this set of trails for only bicycle use, leaving equestrian trail riders and hikers off limits. To me, this would be inappropriate use and a major limitation of this area so a select few can enjoy it.

Response: The Final Rule does not limit the Hope Camp Trail to bicycle use only. Instead, the trail will become a multi-use trail allowing hiking, equestrian, and bicycle use.

One comment received was not relevant to the rule and therefore was not considered.

Changes from the Proposed Rule

Paragraph (a)(2)(ii) was added to clarify that violating a closure, condition, or restriction established by the Superintendent under paragraph (a)(2) is prohibited.

Compliance with Other Laws, Executive Orders, and Department Policy

Regulatory Planning and Review (Executive Orders 12866 and 13563).

Executive Order 12866 provides that the Office of Information and Regulatory Affairs will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (RFA).

This rule will not have a significant economic effect on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). This certification is based on information contained in the report titled, “Cost-Benefit and Regulatory Flexibility Analyses for Designating

Bicycle Trails in Saguaro National Park” that is available for review at <http://www.nps.gov/sagu/parkmgmt/park-planning.htm>.

Small Business Regulatory Enforcement Fairness Act (SBREFA).

This rule is not a major rule under 5 U.S.C. 804(2), the SBREFA. This rule:

- a. Does not have an annual effect on the economy of \$100 million or more.
- b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.
- c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

There are no businesses in the surrounding area economically dependent on bicycle use of this trail. The park does not have any bicycle rental concessioners, and current users are predominantly individuals engaged in recreational activities.

Unfunded Mandates Reform Act (UMRA).

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630).

Under the criteria in section 2 of Executive Order 12630, this rule does not have significant takings implications. A taking implications assessment is not required because this rule will not deny any private property owner of beneficial uses of their land, nor will it

significantly reduce their land's value. No taking of personal property will occur as a result of this rule.

Federalism (Executive Order 13132).

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. A Federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988).

This rule complies with the requirements of Executive Order 12988. Specifically this rule:

(a) meets the in the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation with Indian tribes (Executive Order 13175 and Department Policy).

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's tribal consultation policy is not required.

Affiliated Native American tribes were contacted by letters sent in December 2008 to solicit any interests or concerns with the proposed action. No responses were received by the Park.

Paperwork Reduction Act (PRA).

This rule does not contain information collection requirements, and a submission under the PRA is not required.

National Environmental Policy Act (NEPA).

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA is not required because we reached a FONSI. The Plan/EA and FONSI that included an evaluation of bicycling on the Hope Camp Trail may be viewed online at <http://www.nps.gov/sagu/parkmgmt/park-planning.htm>.

Effects on the Energy Supply (Executive Order 13211).

This rule is not a significant energy action under the definition in Executive Order 13211. A statement of Energy Effects is not required.

Drafting Information

The primary authors of this regulation are Robert Love, Chief Ranger, Saguaro National Park, Darla Sidles, Superintendent, Saguaro National Park, John Calhoun and A.J. North, NPS Regulations Program, Washington, D.C.

List of Subjects in 36 CFR Part 7

National Parks, Reporting and recordkeeping requirements

In consideration of the foregoing, the NPS amends 36 CFR Part 7 as set forth below:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for Part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 462(k); Sec. 7.96 also issued under 36 U.S.C. 501-511, D.C. Code 10-137 (2001) and D.C. Code 50-2201 (2001).

2. Revise § 7.11(a) to read as follows:

§ 7.11 Saguaro National Park.

(a) *Bicycling*. (1) The following trails are designated as routes for bicycle use:

(i) That portion of the Cactus Forest Trail inside the Cactus Forest Drive; and

(ii) The Hope Camp Trail, from the Loma Alta Trailhead east to the Arizona State Trust Lands boundary, located approximately .2 miles beyond Hope Camp.

(2) The Superintendent may open or close designated routes, or portions thereof, or impose conditions or restrictions for bicycle use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives.

(i) The Superintendent will provide public notice of all such actions through one or more of the methods listed in § 1.7 of this chapter.

(ii) Violating a closure, condition, or restriction is prohibited.

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Dated: September 25, 2012

Rachel Jacobson
Principal Deputy Assistant Secretary for Fish and Wildlife and Parks

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